

**National Republican Congressional Committee**

**Donald F. McGahn II**  
General Counsel

November 3, 1999

Lawrence M. Noble, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
NOV 4 10 06 AM '99

Re: Complaint Against Joe Baca and the Friends of Joe Baca

Dear Mr. Noble:

The National Republican Congressional Committee, by and through its General Counsel, hereby brings this complaint pursuant to 2 U.S.C. 437g(a)(1) against Joe Baca and the Friends of Joe Baca. The National Republican Congressional Committee is located at 320 First Street, S.E., Washington, D.C. 20003.

**I. FACTUAL BACKGROUND**

Joe Baca is the Democrat candidate for United States Congress from the forty-second district of California in the upcoming special election to be held on November 16, 1999 to fill the vacancy created by the death of Congressman George Brown. Baca has established a principal campaign committee, Friends of Joe Baca for Congress (FEC ID # C00325449). He is currently the state senator in California's thirty-second senatorial district.

The attached affidavit, sworn to and signed in the presence of a notary public and notarized in accordance with 11 C.F.R. § 111.4, establishes the following facts. On Thursday, October 21, 1999, the Department of Political Science at Cal State San Bernardino sponsored a "meet the candidates" event for the candidates running in the upcoming CA-42 special election. Three of the four candidates in the election attended: Republican Elia Pirozzi, Democrat Joe Baca and Reform candidate Rick Simon. Each candidate spoke, and advocated his election on November 16, 1999.

320 First Street, S.E.  
Washington, D.C. 20003  
(202)479-7069  
[www.nrcc.org](http://www.nrcc.org)

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During the "meet the candidates" forum, each candidate was allotted a table to place campaign brochures or literature. Baca displayed three such pieces on his table. Two stated "Joe Baca for Congress"; one of these included a solicitation for contributions. These two contained the requisite disclaimers as mandated by 11 C.F.R. § 110.11(a)(1)(i). Specifically, the two pieces state "Paid for the Friends of Joe Baca." A third piece, entitled "State Senator Joe Baca's Legislative Roundup" (attached hereto), did not contain any disclaimers, in violation of 11 C.F.R. § 110.11(a) and 2 U.S.C. § 441d (requiring individuals or committees who make communications expressly advocating the election or defeat of a clearly identified candidate to "clearly state" who paid for such communications).

## II. VIOLATIONS

### A. The material distributed at the candidate forum violated 2 U.S.C. § 441d and 11 C.F.R. § 110.11(a).

A disclaimer notice must be used when public political advertising is used either (1) to expressly advocate the election or defeat of a clearly identified candidate for Federal office, or (2) to solicit funds in connection with a Federal election. 2 U.S.C. § 441d; 11 C.F.R. § 110.11(a).

First, the "Legislative Roundup" was distributed in conjunction with a solicitation for contributions. When a campaign uses public political advertising to solicit contributions, the failure to display a proper authorization disclaimer is a violation of 11 C.F.R. § 110.11(a).

Second, the "Legislative Roundup" constitutes express advocacy under the Commission's "reasonable person test" (assuming *arguendo* its consistency with the First Amendment). 11 C.F.R. § 100.222(b), (c) & (d). See FEC v. Furgatch, 807 F.2d 857 (9<sup>th</sup> Cir. 1987). When taken as a whole and with limited reference to external events, the "Legislative Roundup" was distributed in an effort to influence a Federal election, and advocate the election of Baca, as evidenced by the following facts, established in the attached affidavit:

- Baca appeared at a candidate forum.
- While at the forum, he appeared as a candidate.

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- During his presentation, he expressly advocated his election at that forum.
- Baca distributed other campaign literature that expressly advocated his election to office.
- Included in his literature was a solicitation for contributions to his campaign committee.
- His other campaign literature and his "Legislative Roundup" contain similar messages and themes. He touts his record as both an Assemblyman and Senator.
- The material was distributed approximately three weeks before the special election. Such a temporal relationship, combined with the statement that "[t]he future is promising," further establishes an effort to influence the special election, and advocate the election of Baca.

Therefore, Baca campaign literature distributed at the October 21, 1999 candidate forum violated 2 U.S.C. § 441d and 11 C.F.R. § 110.11(a).

**B. The material distributed at the candidate forum may have been paid for with impermissible funds.**

Perhaps most troubling is that the Baca campaign's "Legislative Roundup" may not have been paid for with permissible funds under the Act at all. Instead, it is possible that this is an example of Joe Baca using state taxpayer funds to finance his own career ambitions, and his campaign for the U.S. House.

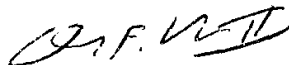
Regardless of whether this is yet another example of a long-standing practice or just an isolated incident, the harm is the same. Federal candidates ought not be afforded the opportunity to knowingly end-run Federal campaign finance law by utilizing state taxpayer money. Such an end-run renders the public record misleading and incomplete, and taints the electoral process.

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### III. CONCLUSION

For the foregoing reasons, the National Republican Congressional Committee respectfully requests that the Federal Election Commission find that there is a reason to believe that a violation of the law has occurred, and investigate the matter promptly.

Respectfully submitted,



Donald F. McGahn II  
General Counsel  
National Republican Congressional Committee

District of Columbia

Signed and sworn to before me  
this 3<sup>rd</sup> day of November, 1999



M.D. ACTON  
Notary Public, District of Columbia  
My Commission Expires 10/12

M.D. ACTON  
Notary Public, District of Columbia  
My Commission Expires July 14, 2004

## BEFORE THE FEDERAL ELECTION COMMISSION

Friends of Joe Baca, and  
Joe Baca

)  
)

MUR \_\_\_\_\_

AFFIDAVIT

1. My name is Rick Phillips. My current address is 4420 N. Varsity Avenue #1160, San Bernardino, CA 92407. I am a student at Cal State San Bernardino.
2. On Thursday, October 21, 1999, I attended a "meet the candidates" forum hosted by the Department of Political Science at Cal State San Bernardino.
3. In attendance were three of the four candidates running in the November 16, 1999 special election for the U.S. House, California's forty-second district. Specifically, Republican Elia Pirozzi, Democrat Joe Baca and Reform candidate Rick Simon were there, all appearing as candidates for Federal office. All spoke, advocating their election to office.
4. During the "meet the candidates" forum, each candidate was allotted a table to place campaign brochures or literature. Baca displayed three such pieces on his table (originals attached hereto).
5. Two of the pieces explicitly stated "Joe Baca for Congress"; one of these included a solicitation for contributions to his Federal campaign committee. The third piece, entitled "State Senator Joe Baca's Legislative Roundup" did not contain any sort of disclaimers as to who or what paid for the material.

I hereby affirm that all statements contained herein are true.

  
Rick Phillips

Dated: October 27, 1999

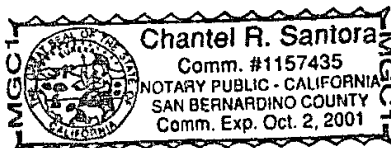
State of California

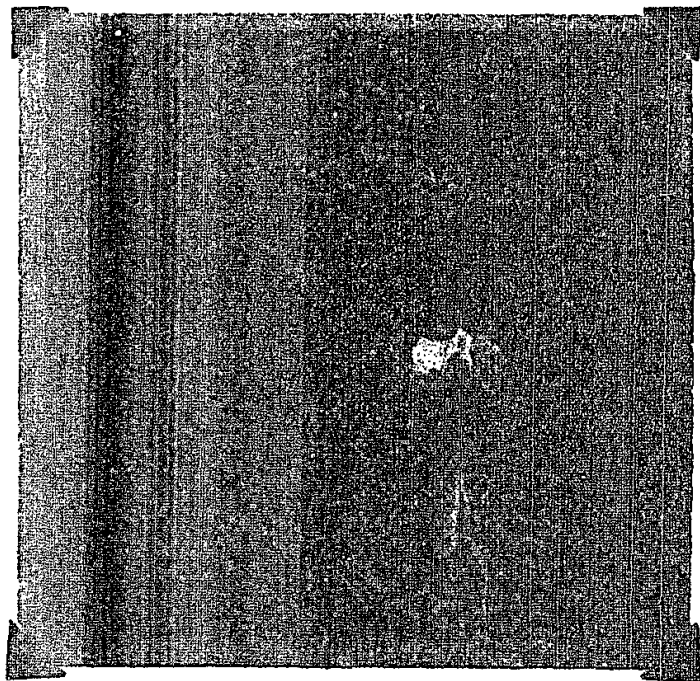
Signed and sworn to before  
me this \_\_\_\_\_ day of October, 1999

STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

Subscribed and sworn to before me  
this 27 day of October, 1999.

Chantel R Santora  
Notary Public  
My Commission expires Oct. 2, 2001

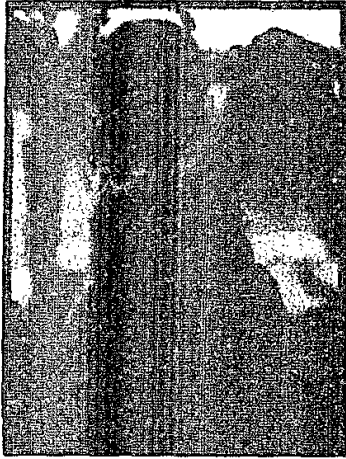




*Thirty Years*

2025 RELEASE UNDER E.O. 14176

# Joe Baca for Congress!



*Joe and his grandson.*

**Dianne Feinstein, United States Senator**

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**Barbara Boxer, United States Senator**

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**California Nurses Association**

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**Planned Parenthood of California**

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**California Highway Patrol Officers Association**

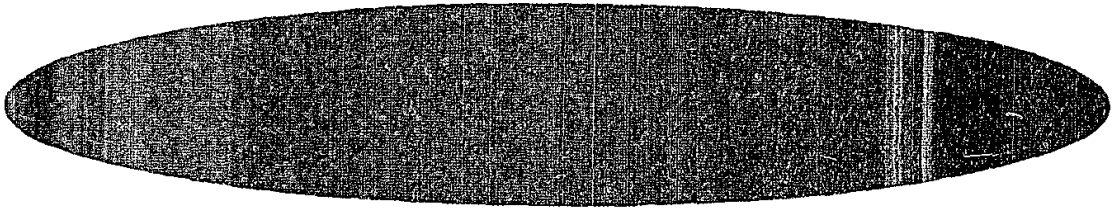
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**California Firefighters**

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**California Police Chiefs Association**

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The following three bills are those that Senator Baca ushered through the legislature and fought tenaciously for their passage. They are mainstays of Senator Baca's ideology and passions—human caring and compassion—from helping our peace officers to breast cancer patients to our children. The first two bills were incorporated into other Senate bills. While these bills are taking on different numerical form, their mission remains in tact as proposed by Senator Baca.

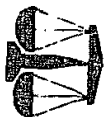
**SB 195 (now SB 334—Alpert):** Requires schools to adopt a comprehensive safety plan for combating and preventing school violence.

• **SB 339** is twofold in its goals: (a) **(SB 800—Dunn):** A 10% increase in the retirement limit for local safety workers to 85% of final compensation. This applies to workers who retire on or after January 1, 2000.

• (b) **(Remains SB 339—Barton):** Appropriates money for collective bargaining agreements—Memorandums of Understanding (MOU).

**SB 193 (Assembly Appropriations Committee):** Sale of special interest license plates to fund new Breast Cancer Treatment Account. The license plates will cost \$50, with \$34 of each plate going towards breast cancer treatment of the uninsured and underinsured breast cancer sufferers.

This has been a rewarding time for me in the State Senate. The future is promising.



**SENATOR JOE BACA**  
Thirty-second Senatorial District



**Capitol Office**  
State Capitol Room 5108  
Sacramento, CA 95814  
Phone: (916) 445-6868  
Fax: (916) 445-0128

**District Offices**  
201 North "E" Street, Ste. 102  
San Bernardino, CA 92401  
Phone: (909) 885-2222  
Fax: (909) 888-5959



The end of a long, yet rewarding, legislative session has arrived. In my freshman term as a Senator, I am pleased with the 17 pieces of legislation I was able to pass. It has been a long road with much hard work, but I feel in the end I persevered. More importantly, the 32<sup>nd</sup> District and its good people prospered and will continue to do so in the future. In all my legislation, the bottom line was meeting the needs of the Inland Empire.

Senator Baca's legislative package included issues dealing with education, labor, economic development, veterans, and, of course, district bills. Senator Baca's legislation signed by Governor Davis is summarized below.

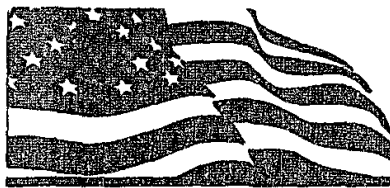
## **Legislation signed into law by Governor Davis:**

- **SB 35 (Chapter #150 - 7/22/99):** A \$35 filing fee (surcharge) would be imposed for courthouse construction and renovation in San Bernardino County. The fee would be assessed for cases over \$25,000 and would be waived for indigents.
- **SB 36 (Chapter #210 - 7/27/99):** Cities and counties must implement veterans' preference in civil service hiring by January 1, 2002 OR pass a resolution stating why they are unable to enact this preference. This bill also preserves local autonomy and does not create a mandate.
- **SB 131 (Chapter #651 - 10/10/99):** Forgive student loans for those who become teachers in schools with a shortage of credential teachers by expanding the Assumption Program of Loans for Education (APLE).
- **SB 142 (Chapter #304 - 9/1/99):** Extend for one year an existing waiver of seismic standards for an existing school building.
- **SB 166 (Chapter #45 - 6/28/99):** 5.3% property tax revenue transfer from San Bernardino
- **County to the City of Chino Hills** through a written agreement effective July 1, 2000 through June 30, 2037.
- **SB 287 (Chapter #268 - 9/30/99):** require that foreign nationals arrested, booked, and/or detained for more than two hours by California law enforcement be informed of their right to contact their nation's consulate and that this right also extend to U.S. citizens (from California) arrested abroad.
- **SB 309 (Chapter #138 - 7/22/99):** Authorize the San Bernardino County Board of Supervisors to consolidate the marshal's office into the sheriff's department following public hearings and an advisory election among county judges.
- **SB 340 (Chapter #786 - 10/7/99):** The Department of Alcoholic Beverage Control may revoke a liquor sales license for the sale of liquor to a minor. The license can be revoked upon the third violation of this sale to a minor by the owner and/or sales clerk in a 36-month period.
- **SB 481 (Chapter #515 - 7/27/99):** The California Trade and Commerce Agency would study the economic benefit of establishing an Inland Empire Distribution Center. This trading center would facilitate the distribution of imports and exports essential to the Inland Empire's economy.
- **SB 482 (Chapter #516 - 7/27/99):** Extend the period that small ("mom and pop") gas station owners can apply for a loan for removal and replacement of obsolete underground gas storage tanks as mandated by Federal law. The application period is extended until Jan. 1, 2002, two years beyond the sunset of January 1, 2000.
- **SB 531 (Chapter #327 - 9/3/99):** Require the Public Utilities Commission to develop and implement a procedure to permit informal complaints to be electronically submitted.
- **SB 558 (Chapter #160 - 7/22/99):** Create a cancer presumption for active law enforcement officers and firefighters. A peace officer or firefighter who contracts cancer during the course of his/her employment would be eligible for disability retirement with at least five years of service under a pension system.
- **SB 583 (Chapter #474 - 9/23/99):** Authorize CALPERS to establish optional risk pools so local public agencies and school districts could pool their assets and liabilities with entities offering a similar package of benefits. This bill also clarifies that CALPERS members can also participate in supplemental defined benefit plans if these plans meet certain criteria.
- **SB 637 (Chapter #404 - 9/15/99):** Financial assistance would be provided to widows/widowers of veterans with service-connected total disabilities. This legislation removes the January 1, 2000 sunset for the Department of Veterans Affairs to grant educational benefits to these spouses.
- **SB 831 (Chapter #94 - 10/10/99):** Allow cities and counties in Chino Basin to identify areas where they wish agriculture to continue and then direct easement purchases there.
- **SB 1210 (Chapter #758 - 10/7/99):** Bring California up to the "status quo" by ensuring that reusable pallets and containers used to transport agricultural products are exempt from taxation in the same manner as non-reusable containers.
- **SB 1309 (Chapter #400 - 9/15/99):** Require the Commission on Teacher Credentialing to provide notice to school districts about options for filling a vacancy when a fully qualified teacher is not available.





*Worthy of Your Consideration...*



### **Family Man**

Joe and Barbara Baca have been married for 30 years. They want good schools and good jobs for their children and grandchildren.

Joe was honored as a "Citizen of Distinction" by our local League of Women Voters.



### **Paratrooper**

Joe served during the Vietnam War era as a Paratrooper in both the 101st and 82nd Airborne.

Joe was the American Legion's "Legislator of the Year" and the V.F.W.'s "Outstanding Legislator."

Joe served as a  
Trustee for  
Community  
Joe was  
of Honor  
Contributi

2025



**College Trustee**

Vietnam  
n both  
me.  
egion's  
id the  
slator."

Joe served for 14 years as a Trustee for the San Bernardino Community College District.

Joe won the "Education Medal of Honor" for his Outstanding Contribution to Public Education.



**Assemblyman**

Joe Baca served 6 years in the State Assembly where he championed a woman's right to choose, HMO reform, and tax cuts for families.

Joe was given a 100% rating by the Congress of California Seniors.



**Senator**

Elected to the State Senate in 1998, Joe fights for lower taxes, safer schools, and tougher laws against drugs and sexual predators.

California's Association of Highway Patrolmen supported Joe's record of fighting crime.

2047 10 32

# I want to help elect JOE BACA to Congress!

☐ You may use my name as a supporter. Signature **X** \_\_\_\_\_

☐ I will host a fundraiser/coffee \_\_\_\_\_

☐ I will make phone calls \_\_\_\_\_

☐ I will walk my neighborhood/precinct \_\_\_\_\_

☐ I will work in the office \_\_\_\_\_

☐ I will display a yard sign \_\_\_\_\_

Enclosed is my contribution of:

☐ \$25

☐ \$50

☐ \$100

☐ \$500

☐ \$1000

☐ Other \_\_\_\_\_

The following information is required by Federal Law. PLEASE PRINT

Name/Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Business Phone: \_\_\_\_\_

Employer/Occupation \_\_\_\_\_

Committee ID Number for PACs: \_\_\_\_\_

Please make checks payable to: Friends of Joe Baca (ID#C00325449) Phone: (909) 381-3225

Donations are not deductible as charitable contributions for Personal Income Tax purpose. Only personal or PAC checks are acceptable. Corporate and business contributions are prohibited by the FEC. Contributions are limited to \$1,000 per individual, married couples may donate a total of \$2,000. Federal law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year. Paid for by the Friends of JOE BACA, P.O. Box 382, San Bernardino, CA 92402. ID#C00325449

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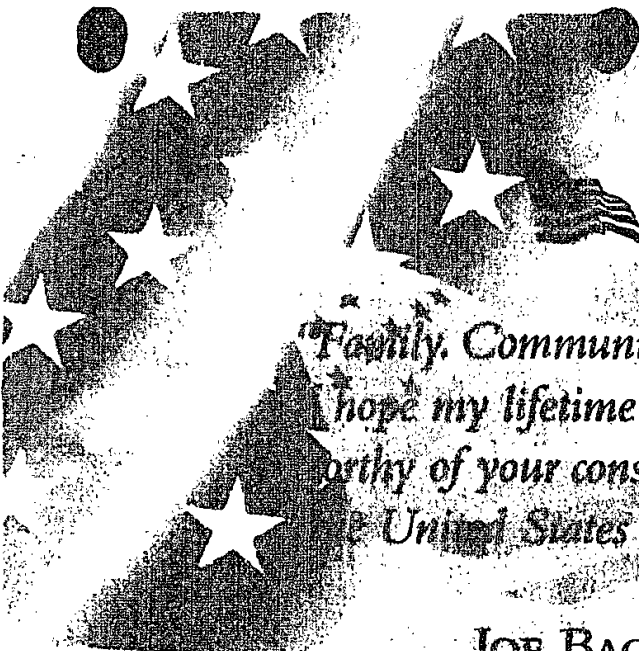
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PLACE  
STAMP  
HERE

**Friends of Joe Baca  
PO Box 362  
San Bernardino, CA 92402**

PLACE  
STAMP  
HERE



*Family. Community. Country.  
I hope my lifetime of service is  
worthy of your consideration for  
the United States Congress."*

**JOE BACA**

PAID FOR BY THE FRIENDS OF JOE BACA, P.O. Box 362, SAN BERNARDINO, CA 92402 • ID#C00325449

60711 204 402 2329